HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

W.P.No.8779 of 1998

Dated 14th day of February, 2007

Between:

N. Jagdiswar Reddy ..
Petitioner

And

The Commissioner of Prohibition
and Excise, Nampally, Hyderabad
and two others ..
Respondents

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O R D E R:

This writ petition is filed seeking a mandamus to declare the action of the respondents in not granting remission of licence fee for the period from 12.4.1997 to 9.6.1997 for the petitioner's Shop No.48 at Chilakalaguda, Jainadha Village, Adilabad District, as illegal and arbitrary.

The brief facts of the case are that the 1st respondent issued a notification by way of publication in District Gazette (extraordinary) dated 5.4.1997 and 25.4.1997 proposing to auction the India Liquor and Foreign Liquor shops for the year 1997-98 under Rule 4 of the Andhra Pradesh Excise (Lease of Right to Sale Indian Liquor and Foreign Liquor in Retail) Rules, 1993 as amended. As per the notification, the lease of excise shops of Indian Liquor and Foreign Liquor is to be granted commencing from 12.4.1997 to 31.3.1998, and the date of auction of the petitioner's Shop No.48 was fixed on 12.4.1997, and the minimum upset price fixed for the shop was Rs.4.00 lakhs. On that day, there were no bidders and the auction was postponed to a subsequent date. Even on the subsequent date, there were no bidders and the auction was adjourned to 7.6.1997. On that day, the petitioner participated in the auction. While calling for tenders, the respondents did not choose to reduce the minimum upset price even though the lease period was reduced by about two months. However, the tenderers were informed by the 1st respondent that remission of licence fee for the period from 12.4.1997 to 9.6.1997 would be granted. By making such representation, the respondents induced them to quote the price for the entire lease period i.e. from 12.4.1997 to 31.3.1998. Due to threats held out by Naxalites on the

first two occasions, no bidder came forward to submit the tender. The petitioner took a grave risk and submitted the bid. During the lease period, there were many interruptions from the Naxalites and their sympathizers, due to which, the petitioner incurred loss. In the auction conducted on 7.6.1997, the petitioner was the only highest bidder for Rs.4,00,156/- and he was granted licence on 9.6.1997. The respondents did not issue any fresh gazettee notification but only relied on the notification published on 5.4.1997. For the adjourned date of auction, only a paper notification was issued inviting tenders to participate in the auction. Recently, the 1st respondent granted remission of licence fee to certain shop owners, but the petitioner was informed that no remission would be granted to him for the period from 12.4.1997 to 9.6.1997.

Heard the learned counsel for both the parties.

When a similar aspect came up for debate before a Full Bench of this Court in **Sri Narasimha Wines Vs. Prohibition and Excise Superintendent**[1], this Court held that grant of licence is a matter of contract between the Government and Party and the provision "for payment of the entire licence fee" was inserted by the State Government in exercise of the Rule making power and no writ of mandamus can be issued directing the authorities to grant remission for the period during which no business was carried on.

In the light of the said judgment, this writ petition is devoid of merits and the same is accordingly dismissed. No costs.

14.02.2007

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[1] 2001(6) ALT 240 (F.B)